

**REMARKS**

Applicant has reviewed the Notice of Non-Compliant Amendment under 37 CFR 1.121 mailed on September 21, 2005. This amendment with the following remarks is a substitute and a replacement for the bona fide attempt to reply to a non-final office action with the amendment filed on September 21, 2005. The present amendment includes the proper status identifier for each claim as well as the text of all claims including withdrawn claims. The Applicant's respectfully submit that the Notice of Non-Compliant Amendment should be withdrawn.

Applicants have studied the Office Action dated June 21, 2005. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested. Claims 1, 3, 4, 10, 11, 13, 14, 15, and 16 have been amended. Claims 17-22 have been added. Claims 1-4, and 10-22 remain pending in the application. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks are respectfully requested. Applicants submit that the application, as amended, is in condition for allowance. In the Office Action, the Examiner:

- Objected to the Preamble of claim 14;
- Rejected claims 1, 11, and 15 under 35 U.S.C. § 112, second paragraph as being indefinite; and
- Rejected claims 1-4 and 10-16 under 35 U.S.C. § 103(a) as being unpatentable over Kang (U.S. Patent Publication 2004/0225891).

**Objection to Preamble of Claim 14**

As noted above, the Examiner Objected to the Preamble of claim 14 for containing a semicolon rather than a colon. Claim 14 has been carefully amended to replace the semicolon with a colon. The Applicants respectfully submit that the Examiner's objection to claim 14 has been overcome and should be withdrawn.

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Rejection under 35 U.S.C. §112, Second Paragraph

As noted above, the Examiner rejected claims 1, 11, and 15 under 35 U.S.C. § 112, second paragraph as being indefinite. Independent claims 1, 11, 15 have been carefully amended to correct the antecedent basis of "identifier". Claims 1, 11, and 15 as amended now particularly point out and distinctly claim the subject matter of the present invention. The Applicants respectfully submit that the Examiner's rejection to claims 1, 11, and 15 under 35 U.S.C. § 112, second paragraph has been overcome and should be withdrawn.

Rejection under 35 U.S.C. §103(a)

As noted above, the Examiner rejected claims 1-4 and 10-16 under 35 U.S.C. § 103(a) as being unpatentable over Kang (U.S. Patent Publication 2004/0225891). Independent claims 1, 10, 11, and 15 have been amended to distinguish over Kang. Preferred embodiments of the present invention provide an improved method, computer readable medium, and apparatus for creating a library index of storage locations to electronic digital content stored on a user's machine such as movies, music and software. The present invention detects tampering of locally stored electronic digital content by uniquely tracking updates to the electronic digital content in both time-stamp and by update number. This is especially important in situations where the electronic digital content is licensed only for a limited number of plays or for a limited time. (See the last two paragraphs of page 9 in the Background Section of the Present Invention as originally filed.) Unlike prior art systems, if a user of the present invention simply re-installs or re-downloads the identical electronic digital content into their own library, the present invention detects these updates to the electronic digital content and eliminates the problem of over-writing, over-riding, or otherwise circumventing the original license conditions for the identical content. The present invention detects tampering of locally stored electronic digital content through use of a database or in its simplest form a data table for storing encrypted location indicators to the data items that form the encrypted digital content. This is clearly illustrated in FIGs 20-25 and described in pages 165-172 of the specification in the present invention as originally. Access to determining if there

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are any updates to any data items that form a library index of storage locations to electronic digital content is governed by a decrypting key which is formed as a combination of a base key, a time-stamp, and an update number so as to uniquely correspond to both a given time and a given update in the section of the file.

In order to more particularly point out this feature of determining if there are any updates to any data items that form a library index of storage locations to electronic digital content, the following language has been added to the independent claims, i.e., claims 1, 10, 11 and 15:

A method for forming a data table stored in memory, the data table forming a library index of storage locations to electronic digital content, the method comprising the steps of:

decrypting at least a section of a file with a first decrypting key, wherein the first decrypting key is formed as a combination of a base key, a time-stamp, and an update number so as to uniquely correspond to both a given time and a given update in the section of the file;

determining if there are any updates in the section of the file to any data items that form a library index of storage locations to electronic digital content and if there are no updates then performing the steps of:

decrypting, with the first decrypting key, a reference table containing one or more-location indicators for storing the data items in a data table; and

populating the data table with the data items at locations specified by the location indicators in the reference table.

The support for this amendment is found in FIGs 20-25 and described in pages 165-172 of the specification as originally filed. No new matter has been added.

As an initial matter, the Kang reference is directed to encrypting electronic digital content for a specific user's machine. In contrast the intent of the present invention is

to detect tampering or state changes to identical content. Kang is completely silent on this feature.

The Examiner on page 6 refers to Kang paragraph 48 to teach time-stamp. Paragraph 48 of Kang is reproduced below with emphasis added:

Third, a temporary validation key is used for encrypting a part of the digital information and the header. It is preferably generated by using random numbers and its size is determined to be a multiple of eight (8) bytes. In the practice of the present invention, the temporary validation key is preferably eight (8) bytes. One feature of the present invention is that two temporary validation keys with the same content will not be generated. For example, the temporary validation key may be generated according to the time when the user accesses the service server. Accordingly, the same user will receive different temporary validation keys, with each of the temporary validation keys corresponding to a different access time of the user. The temporary validation keys remain valid only while the user is in the process of accessing the system, that is, temporarily.

It is not clear whether Kang is using a "time-stamp" or some other mechanism when creating the temporary validation key. Kang never mentions time again. However, Kang is silent on using an "update number so as to uniquely correspond to both a given time and a given update in the section of the file" so the independent claims 1, 10, 11, and 15 of the present invention distinguish over Kang for at least this reason.

The Examiner on page 5 refers to Kang paragraphs 120-122 to teach "determining if there are any updates". It is not clear to the Applicants if the Examiner is using hash values to teach updates to the content. Clearly, Kang is not teaching or suggesting

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“determining if there are any updates in the section of the file to any data items that form a library index of storage locations to electronic digital content and if there are no updates then performing the steps of:

decrypting, with the first decrypting key, a reference table containing one or more location indicators for storing the data items in a data table; and

populating the data table with the data items at locations specified by the location indicators in the reference table.”

Kang does not recite the structure of using both a reference table and a data table, wherein the reference table contains one or more location indicators for storing the data items in a data table. Accordingly, independent claims 1, 10, 11, and 15 of the present invention distinguish over Kang for at least this reason, as well.

Further, Kang does not suggest or teach the decrypting, with the first decrypting key, a reference table where the decrypting key is “formed as a combination of a base key, a time stamp, and an update number so as to uniquely correspond to a given time and update number.” Kang is completely silent on how to eliminate the possibility of a user circumventing a limited number of licensed plays and/or a time period of the license to the electronic digital content. Accordingly, independent claims 1, 10, 11, and 15 of the present invention distinguish over Kang for at least this reason, as well.

Moreover, the Federal Circuit has consistently held that when a §103 rejection is based upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness can not be properly made. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Here the intent, purpose and function of Kang is encrypting electronic digital content for a specific user's machine using a set of three keys. In contrast the intent of the present invention is to detect tampering or state

changes to content on a user's machine. Kang makes no suggestion or teaching how to handle updates to content especially updates by re-loading the identical content. Rather Kang in paragraphs 116 – 121 explicitly teach stopping and generating an error message the process if a hash value does not match. This combination, as suggested by the Examiner, destroys the intent and purpose of Kang's teaching of stopping decrypting if an update to the content takes place as indicated by a hash value. Accordingly, independent claims 1, 10, 11, and 15 of the present invention distinguish over Kang for at least this reason, as well.

Claims 2-4, 12-14, and 16-21 depend from independent claims 1, 11, and 15. Since dependent claims contain all the limitations of the independent claims, claims 2-4, 12-14, and 16-21 distinguish over Kama, as well, and the Examiner's rejection should be withdrawn.

### **CONCLUSION**

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR § 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

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Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No Previously Presented matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

**PLEASE CALL** the undersigned attorney at (561) 989-9811 should the Examiner believe a telephone interview would help advance prosecution of the application.

Respectfully submitted,

Date: October 13, 2005

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